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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,956	12/11/2003	David E. Fenton	82301SMR	9217

7590 03/23/2005

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EXAMINER	
LE, HOA VAN	

ART UNIT	PAPER NUMBER
1752	

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/732,956	FENTON ET AL.	
	Examiner	Art Unit	
	Hoa V. Le	1752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-16 with respect to the applied mixture species is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-16 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 11 December 2003.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

This application is before the examiner for consideration on the merits.

I.a. Claims 1-16 are generic to a plurality of disclosed patentably distinct species comprising many possible spectral sensitizing dye to provide the first peak as broadly disclosed and claimed. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

b. Claims 1-16 are generic to a plurality of disclosed patentably distinct species comprising many possible spectral sensitizing dye to provide the second peak as broadly disclosed and claimed. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

II. Applicants elect 50/50 mole ratio of the mixture of SD-2 and SSD-9 spectral sensitizing species on Table 1-1, Sample No. 101 (INV) on page 47 of the specification. The elected mixture species has been considered and searched. The considered and searched are extended to the applied species mixture. Others have not been considered, searched or examined until all of the applied mixture species are overcome.

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwan et al (3,672,898).

Schwan et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at col.11:41 to 16:72, 26:57 to 27:3, Example 13-16.

Schwan et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for

the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Schwan et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Schwan et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Schwan et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

IV. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al (4,705,744) (Sasaki (4,707,436) is cumulative and does not applied).

Sasaki et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied reference, especially at spectral sensitizing dyes SD(1-44) on cols. 25-32, Examples 1, Samples 1 and 311:41 to 16:72, 26:57 to 27:3, Example 13-16.

Sasaki et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Sasaki et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG(I, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is

allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Sasaki et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Sasaki et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

V. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki (5,053,324).

Sasaki discloses, teaches and suggests a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at col.3:61-64, Example 1, Sample 101, Example 7, Sample 701.

Sasaki does not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the

absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Sasaki does not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Sasaki reasonably discloses, teaches and suggests the claimed embodiments, the above claims are found to be rendered prima facie obvious by Sasaki. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

VI. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Nazawa (5,166,042).

Nazawa discloses, teaches and suggests a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at the spectral sensitizing dyes on col.31:23 to 51:59, Example 1, Sample 101, col.123:59 to 124:28, 125:17-53, 128:30-38, 129:9 to 130:14.

Nazawa does not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Nazawa does not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral

sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Nazawa reasonably discloses, teaches and suggests the claimed embodiments, the above claims are found to be rendered prima facie obvious by Nazawa. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

VII. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohtani et al (5,200,308).

Ohtani et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at col.3:6-11, Example 1.

Ohtani et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Ohtani et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Ohtani et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Ohtani et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated

in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

VIII. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Ezaki et al(5,258,273).

Ezaki et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at Example on col.66:1 to 77:15.

Ezaki et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Ezaki et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Ezaki et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Ezaki et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

IX. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikegawa et al (5,308,748).

Ikegawa et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their

amounts to give two peaks. Please see the whole disclosure of the applied references, especially at Example 1, Sample 101, Example 2, Sample 201, Example 3, Sample 301.

Ikegawa et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Ikegawa et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Ikegawa et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Ikegawa et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request

applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

X. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Buitano et al (6,093,526).

Buitano et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at the J-aggregate spectral sensitizing dye on col.10:58 to 20:53, Example1, Table 1-1, col.51:41 to 52:24, 54:24-54.

Buitano et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in

In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Buitano et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Buitano et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XI. Claims 1-16 with respect to the applied species are rejected under 35 U.S.C. 103(a) as being unpatentable over Sowinski et al (6,296,994).

Sowinski et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at col.14:40-43, 27:15-26, 28:36-45, 29:54 to 30:23, Samples 101, 102, 104 and 105.

Sowinski et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...",

"absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Sowinski et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Sowinski et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Sowinski et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early

provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XII. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Heki (6,479,226).

Heki discloses, teaches and suggests a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at the J-aggregate spectral sensitizing dyes on col.241 to 3:20, S-1(1-17), S-2(1-18), Example 1, Sample 101, 102, 103, 109, 110, 112, 113, 114 and 116.

Heki does not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Heki reasonably discloses, teaches and suggests the claimed embodiments, the above claims are found to be rendered prima facie obvious by Heki. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XIII. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimba et al (EP 0 458 315) (Shimazaki (EP 0 447 138) is cumulative and does not applied).

Sasaki et al discloses, teaches and suggests a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at the spectral sensitizing dyes on page 35:48-51, IV(1-53), Example 1.

Shimba et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or

"absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Shimba et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Shimba et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Shimba et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XIV. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohashi et al (4,599,301).

Ohashi et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at Example 1, Samples 101, Example 7, Sample 701.

Ohashi et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Ohashi et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in

accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Ohashi et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Ohashi. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XV. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al (6,656,670).

Sato et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at Example 1, Sample 101, Table 2 Example 7, Sample 701.

Sato et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...",

"absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Sato et al do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Sato et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Sato et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early

provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XVI. Claims 1-16 with respect to the applied mixture species are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagaoka et al (6,740,481).

Nagaoka et al disclose, teach and suggest a silver halide color photographic material comprising a support having thereon at least three blue-, green- and red-sensitive units with each unit comprising at least one sensitive emulsion layer, wherein at least one green sensitive emulsion layer containing at least two different and distinct spectral sensitizing dyes and their amounts to give two peaks. Please see the whole disclosure of the applied references, especially at Example 1, Sample 101, Table 2.

Nagaoka et al do not specify the functional language "first peak being between...nm", "second peak being between...nm", "ratio of the absorptance peak...short...long...", "absorptance minimum...", "the ratio of the absorptance...smaller...", "the ration of the absorptance...highest..." in claim 1; "short... long wavelength peak..." in claims 2, 3 and 4; or "absorptance minimum..." in claims 5-6 of the use of the spectral sensitizing mixture. Since the applied reference is also use the spectral sensitizing mixture as clearly pointed out above, it has reason to believe that the same property may obtained in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Nagaoka do not specify the functional language of least one of the spectral sensitizing dye mixture having a "J-aggregate" property in claims 11-15. Since the applied spectral sensitizing dyes being read within the general formulas I, II, SG (I, II, III and IV) in claims 7-10 and, it has reason to believe that at least one of them has the "J-aggregate" property in accordance in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429 that it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property.

Since Nagaoka et al reasonably disclose, teach and suggest the claimed embodiments, the above claims are found to be rendered prima facie obvious by Nagaoka et al. It is clearly pointed out and set forth on the record that for the claimed property of a material, it is allowed to request applicants to show otherwise for the patentability of the claims because the claims would have no value if the applied material has the claimed property in accordance with the authority stated in In re Schreiber , 44 USPQ2d 1429. Therefore, applicants are urged and requested to early provide convincing evidence to overcome the rejection on the record, speed up the prosecution and early allow the claims.

XVI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332. The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday though Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
16 March 2005

HOA VAN LE
PRIMARY EXAMINER
Hoa Van Le